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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/690,313

10/17/2000

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STL920000052US2/A8504

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06/19/2012

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USPTO CUSTOMER NO WITH IBM/SVL

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WASHINGTON, DC 20037

EXAMINER

HAN, QI

ART UNIT

PAPER NUMBER

2626

MAIL DATE

DELIVERY MODE

06/19/2012

PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES L. KEESEY and GERALD J. WILMOT

Appeal 2010-011654
Application 09/690,313
Technology Center 2600

Before MAHSHID D. SAADAT, JASON V. MORGAN,
and BRYAN F. MOORE, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-3, 5-16, 18-29, and 31-40. Claims 4, 17, and 30 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

Appellants' invention relates to a method and apparatus for providing continuous speech recognition as an alternate input device to limited processing power devices such as personal digital assistants (PDAs) (*see* Spec. 2:8-12).

Claim 1 is illustrative of the invention and reads as follows:

1. A method of data entry at a device, comprising:
receiving voice data at the device;
transmitting the voice data and a device identifier to a computer; and
at the computer,
translating the voice data to text;
determining whether to filter the translated text;
and
if it is determined that the translated text is to be filtered, applying a filter to the translated text;
wherein the voice data is translated to text using a voice print, and the translated text is returned to the device, and
wherein the voice print is retrieved from a datastore based on the device identifier.

Rejection

The Examiner rejected claims 1-3, 5-16, 18-29, and 31-40 under 35 U.S.C. § 103(a) as being unpatentable over Hedin (US 6,185,535 B1), King (US 6,532,446 B1), and D'Hoore (US 6,085,160).

Appellants' Contentions

With respect to the rejection of independent claims 1, 14, and 27, Appellants contend that the Examiner erred in rejecting the claims as obvious over Hedin, King, and D'Hoore because: 1) "the Examiner has failed to articulate a credible motivation" for combining the references (App. Br. 13-16) and 2) the combination of references fails to teach or suggest all the claimed features (App. Br. 16-21).

Appellants specifically argue that modifying Hedin with King to return the translated text to the client device is not needed because Hedin sends the audio data to the client to be played back on the client device (App. Br. 14-15). Additionally, Appellants assert that the proposed combination with D'Hoore does not result in the claimed invention because no teaching or suggestion is identified in D'Hoore to show "that the voice print is used to translate voice data into text" (App. Br. 16-17). Lastly, Appellants contend that the cited portion in column 5 of Hedin does not teach or suggest the claimed "determining whether to filter the translated text; and if it is determined that the translated text is to be filtered, applying a filter to the translated text" because "the 'filtering' as taught by Hedin is used to prevent predetermined data from being transmitted to a terminal, and is not used to filter voice data that has been translated to text" (App. Br. 20-21).

Issue on Appeal

Did the Examiner err in rejecting claims 1, 14, and 27 as being obvious over Hedin, King, and D'Hoore because the combination fails to teach or suggest all the claimed features and there is no suggestion or teaching for making the proposed combination?

ANALYSIS

We have reviewed the Examiner's rejection in light of Appellants' contentions that the Examiner has erred. We disagree with Appellants' conclusions.

As stated by the Examiner (Ans. 13-14), King was relied on to teach "the translated text is returned to the device" as the symbolic data file, such as alpha-numeric or control characters, which is sent back to the originating mobile device (*see* King, Abstract; col. 3, ll. 10-25; col. 10, ll. 32-48). We agree with the Examiner's conclusion that one of ordinary skill in the art would have found it obvious to combine King with Hedin in order to use the speech recognition capabilities of the server and send the translated text to the device (Ans. 13).

We also agree with the Examiner (Ans. 15-17) that the voice print of D'Hoore, which is used for better matching the speech of a specific speaker (col. 7, ll. 44-50), would have improved the speech recognition system of Hedin combined with King by recognizing the received voice data before the voice is translated to text. Contrary to Appellants' argument (Reply Br. 9) that the voice print of D'Hoore is not used for the same purpose as the claimed invention, D'Hoore explains that the voice print, which is formed based on utterances of that word by the user, is used to recognize utterances of the trained word by the speaker (col. 7, ll. 44-51).

We further observe that Appellants take the position (Reply Br. 5-6) that "the 'filtering' as taught by Hedin, is used to prevent certain words from being received by a terminal" which represents a different objective than that of the claimed invention. However, the claims include no limitation related to the discussed objectives and therefore, are met by "converting" or

“filtering” of the data in Hedin (*see* col. 5, ll. 43-55). We also remain unconvinced of the Examiner’s error in combining the references based on Appellants’ argument (Reply Br. 6) that Hedin teaches away from the combination because Hedin sends audio data to the client so that the user can hear the selection instead of view them on the screen. In that regard, Hedin teaches that the conversion of speech data may include substituting voice data for text (col. 5, ll. 58-61) whereas conversion of text into audio that is played for the user (col. 5, l. 66 – col. 6, l. 8) is available as an additional aspect of the speech recognition system of Hedin.

Regarding Appellants’ contention challenging the propriety of the proposed combination, we also agree with the Examiner’s analysis and reasoning (*see* Ans. 12-19) and find that the Examiner has articulated how the claimed features are met by the reference teachings with some rational underpinning to combine Hedin, King, and D’Hoore. As stated by the Supreme Court, “the [obviousness] analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). The operative question is “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* Therefore, the benefits of improving the speech recognition systems described by King and D’Hoore would have suggested using a voice print for translating voice data to text and returning the translated text to the device in Hedin’s system to one of ordinary skill in the art.

CONCLUSIONS

1. The Examiner did not err in combining Hedin, King, and D'Hoore to reject claims 1, 14, and 27, or claims 2, 3, 5-13, 15, 16, 18-26, 28, 29, and 31-40 not argued separately.
2. Claims 1-3, 5-16, 18-29, and 31-40 are not patentable.

DECISION

The Examiner's decision rejecting claims 1-3, 5-16, 18-29, and 31-40 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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